BUDGET DEEP-DIVE INTO DISABILITY SERVICE PROVIDER RATES

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ISSUE BRIEF

SUMMARY

This brief reviews the payment rates for disability service providers within the public disability services system in Utah. The scope of the brief includes providers delivering services in the community as part of the Home and Community-Based Services (HCBS) Waivers of the Medicaid program; it does not include rates for providers in institutional settings, which are comprised of nursing facilities and Intermediate Care Facilities for Individuals with Intellectual Disability (ICF/IDs). Of Utah's eight HCBS Waivers, three waivers are discussed here: Community Supports (for individuals with intellectual disabilities and related conditions), Acquired Brain Injury, and Physical Disabilities. The Department of Human Services (DHS) - Division of Services for People with Disabilities (DSPD) oversees the budget for these waivers, herein referred to as DSPD Waivers. DSPD also manages services not considered here, including non-Medicaid services, services for those on the waiting list, and the Utah State Developmental Center, which is an ICF/ID.

The brief discusses revenue sources, expenditure trends, historical funding changes, how the impact of rate changes has been measured, and how other states set and manage these rates (pages 2-19). It then considers whether current rates are accurate, adequate, and how future rate increases should be determined (pages 19-20). Recommendations for action are in the Legislative Action section below.

LEGISLATIVE ACTION

Based on the analysis provided in this brief, the Legislative Fiscal Analyst (LFA) recommends the Legislature consider the following actions:

1. I move to request that the Department of Health (DOH) present the results of the cost analysis of the Home and Community Based Services (HCBS) Waiver, currently being prepared for the Centers for Medicare and Medicaid Services (CMS), to the Social Services Appropriations Subcommittee during the 2018 Interim. I further move to request that, at that time, the Division of Services for People with Disabilities (DSPD) present a proposal for rate adjustments within the three DSPD Waivers based on the results of the cost analysis.
   DOH Response: *The cost reporting effort currently underway involves a review of the following services within DSPD programs: Residential Habilitation Supports, Host Home Support, Professional Parent Supports, Supported Living, and Day Support Services. DOH, in conjunction with DSPD, plans to distribute the cost surveys to providers during the month of October 2017 with responses expected by the end of December 2017. Because this is the first iteration of the cost survey tool, individual provider*

results will need to be validated prior to conclusions being drawn from the data. The Department anticipates results will be available July 2018.
DSPD Response: *DSPD will work with DOH to make recommendations about rate adjustments based on the results of the analysis conducted by DOH. The timeline for DSPD's recommendations is contingent on when the analysis is completed by DOH.*

2. I move to recommend that all new funding requests for rate increases for disability service providers include a cost analysis, in addition to other justification, and specific performance measurements to determine the impact, effective for the 2018 General Session.
   DSPD Response: *DSPD is able to comply with this request.*

3. I move to recommend that DSPD implement a survey or other means of assessing the reasons that a provider exits the disability services market, when a contract is terminated by a provider rather than DSPD, effective by January 1, 2018.
   DSPD Response: *DSPD is amenable to begin collecting this information from contractors at the time that the contractor notifies our agency of termination.*

4. I move to request that DSPD, in conjunction with DOH as needed, examine cost-containment strategies implemented by other states -- including cost limits, service or hourly limits, geographical limits, and transitioning to managed care -- and report during the 2018 Interim on the potential for long-term savings, improved care, and the ability to serve more individuals within the same budget.
   DSPD Response: *DSPD continues to work closely with its partners in DOH to navigate complex funding and policy decisions and develop solutions to best provide long term supports to Utahns with disabilities. DSPD can initiate this research and report on what has been discovered at the end of the 2018 General Session.*
   DOH Response: *DOH will work with DHS to examine the various cost-containment strategies described above.*

DISCUSSION

This section addresses the following questions:

1. Why are there public disability services and what is the system intended to accomplish?
2. How are disability service provider rates set?
3. Who receives disability services?
4. How is the disability services system organized?
5. How do we pay for disability services?
6. What are we buying with disability services?
7. How do other states determine disability service provider rates?
8. How do we know if we are successful with setting disability service provider rates?

1. Why are there public disability services and what is the system intended to accomplish?

Authority. Services for individuals with disabilities are established in federal and state statute.

Title XIX of the federal Social Security Act, commonly known as Medicaid, is a program jointly administered and funded by federal and state government. Medicaid provides funding for healthcare and other needs for individuals with disabilities meeting the set eligibility criteria. Among the entitlement benefits for these individuals is the option to receive long-term care in a nursing facility or ICF/ID.

In 1981, the federal government added Section 1915(c), the Home and Community Based Services (HCBS) Waiver, to Title XIX, which allowed states to provide long-term care in community settings rather than institutions and have certain federal requirements of the Medicaid program waived. Utah established the Community Supports Waiver in 1986, to provide home and community-based services to individuals with a disability who would otherwise quality for and could be placed in an ICF/ID. The Community Supports Waiver covers individuals with intellectual disabilities and related conditions, such as autism and cerebral palsy. Utah subsequently added other waivers for specific disability-related populations: the Acquired Brain Injury Waiver in 1995, the Physical Disability Waiver in 1998, and the Autism Waiver in 2013.[1]

Utah's waiver allows the State to limit services for eligible individuals based on available appropriations, which is not permitted for non-waiver aspects of Medicaid. As a result, the State maintains a waiting list of individuals who qualify for services but for whom there is not sufficient funding. (See Figure 1). Details on how and when individuals are moved from the waiting list into services are described in the statute and rule citations listed below.

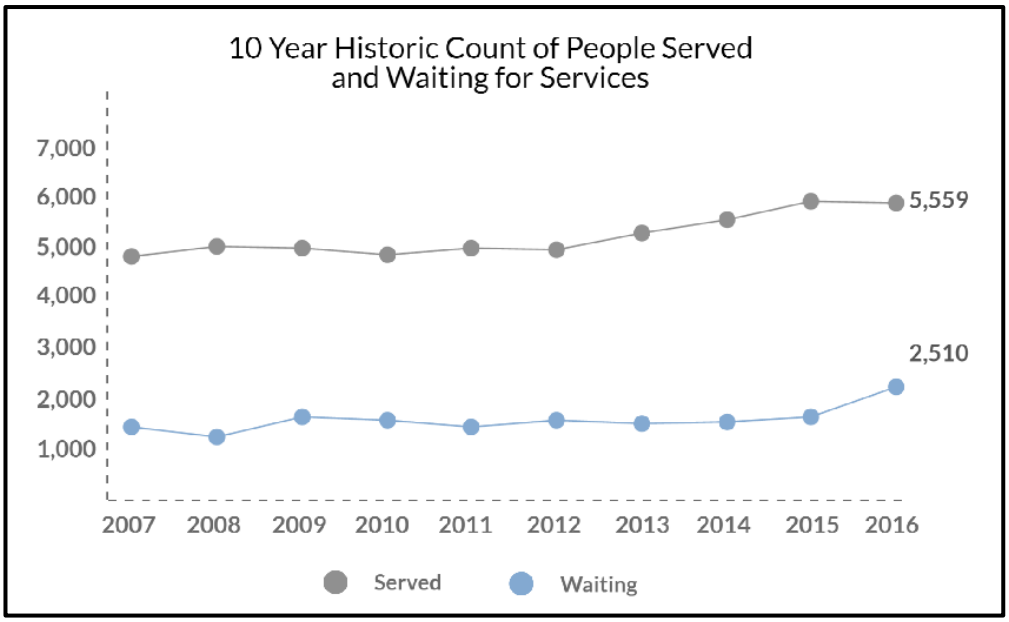

Figure 1. Number of Individuals Served and Waiting for Services, 2007-2016
Source: DSPD Annual Report 2016

[1] Although DSPD manages the Autism Waiver administratively, all costs are reflected in the Department of Health's budget. Per federal guidelines this waiver is phasing out, with clients treated instead under the Early Periodic Screening, Diagnosis, and Treatment program.

The Utah Legislature creates the authority for the public disability services system and the responsibilities for DSPD in the following Utah Code Annotated (UCA) sections:

- 62A-5-102. Assigns DSPD "the responsibility to plan and deliver an appropriate array of services and supports to persons with disabilities and their families in this state" and sets certain policies related to the budget.
- 62A-5-103. Sets the authority and responsibilities of the division, including to "receive and disburse public funds," which incorporates determining rates as part of fund disbursal to providers.

DSPD develops administrative rules to further govern and guide its responsibilities:

- R539. Sets eligibility criteria for each waiver program, establishes rights and protections for those receiving services, and describes aspects of certain programs.

The Department of Health (DOH) sets the income eligibility requirements for the HCBS Waivers in rule:

- R414-502. Sets eligibility criteria for individuals with disabilities, including the definitions for requiring a nursing facility level of care.
- R414-510. Sets eligibility criteria for individuals with disabilities to transition from institutional settings to community-based services.

Goal. The mission of DSPD is to "promote opportunities and provide supports for people with disabilities to lead self-determined lives by overseeing home and community-based services for more than 5,000 people who have disabilities. Support includes community living, day services, and supported employment services." The goal of the DSPD Waivers is to serve individuals with disabilities in their homes or other community-based settings to facilitate greater integration with the general population. These settings are often preferred by individuals with disabilities and their families, which supports the health and well-being of these families. Community-based services are generally less expensive than institutional care because they leverage natural supports, such as parents and friends, local organizations, and public transportation. Per the waiver terms, the cost of community-based services must be less expensive than institutional care in aggregate, across all individuals participating in the waivers.

2. How are disability service provider rates set?

States determine their rates for disability service providers, within requirements set in federal regulations. In Utah, DSPD sets these rates.

Federal Requirements. When applying for renewal of the HCBS Waiver, which occurs every five years, states must describe the methods used to establish payment rates and submit them to the Centers for Medicare and Medicaid Services (CMS). According to CMS, this description must include the following components:

- *42 CFR 447.201*. Must describe the policy and the methods used in setting payment rates for each type of service.

- *42 CFR 447.202.* Must assure appropriate audit of records if payment is based on costs of services or on a fee plus cost of materials.
- *42 CFR 447.203.* Must maintain documentation of payment rates and record the following for making increases in payment rates for individual practitioner services.
- *42 CFR 447.204.* Must assure that payments be sufficient to enlist enough providers so that services under the plan are available to beneficiaries at least to the extent that those services are available to the general population.

For rate increases of ten percent or more, DSPD must request approval of a waiver amendment from CMS. DSPD reports that "this is often not feasible after the rate increase is approved at the end of the legislative session in March prior to the implementation date of July 1." When this occurs, DSPD pays the full increase to providers but does not receive federal reimbursement until after CMS approves the amendment.

History. In the 1990s, DHS conducted a full cost analysis to determine the rates for each service. (See Figure 8 for the costliest services and Appendix A for a full list of current rates for the Community Supports Waiver). Since that time, DSPD has added services and based the amount on similar existing rates. *The only rate adjustments since the 1990s have come from new appropriations that were directed to specific uses.*

Until 2014, statutory language existed in the state Budgetary Procedures Act requiring both the Governor and the Legislature to "consider an amount sufficient to grant" certain contracted providers "the same percentage increase for wages and benefits that is included in the budget for persons employed by the state." The Legislature removed this language with passage of H.B. 357, "Budgetary Amendments" (2014 General Session). Since that time, contracted providers, which comprise nearly all the community-based disability service providers, have generally not received a cost of living adjustment (COLA) along with regular state employees.

In the years since 2014, it has become more common for DSPD, providers, and advocates to request funding increases for specific types of providers or services. A history of recent appropriations is shown in Figure 5. In some cases, these requests have been intended to reduce turnover and attract more qualified employees among certain provider types and thereby provide stability of care for individuals and reduce spending on training and recruitment, such as with direct care salary increases. In other cases, requests were intended to prevent provider companies from exiting the market, such as with fiscal intermediaries.

DSPD and DOH are currently preparing a new cost analysis of residential settings as requested by CMS, prior to approval of the most recent waiver renewal. DSPD describes the new cost analysis as follows: "This process began in the spring of 2017 where providers, Medicaid, and DSPD staff convened to discuss what reporting was required and how existing efforts may be leveraged. With the assistance of a private accounting firm contracted with Medicaid, a cost survey has been created to collect cost data for providers of residential habilitation, day supports and associated non-medical transportation. The State anticipates sending the survey out in mid-October and analyzing the data/reporting back to CMS in early 2018."

3. Who receives disability services?

Demographics. DSPD provides various demographic information, both for individuals in services and those waiting for services, in their Annual Report.

Eligibility. DSPD identifies individuals who are eligible for services based on **income** and **primary diagnosis**, the criteria for which are set in administrative rule and cited above under Question 1. The division then conducts a **needs assessment** to determine who to bring into services given the amount of available funding; the criteria for this assessment are in UCA 62A-5-102. DSPD also has provisions to accommodate emergency situations.

Eligible diagnoses, or disability types, include:

- *Intellectual Disabilities.* Mild, moderate, severe, profound, other.
- *Related Conditions.* Autism spectrum, cerebral palsy, chromosomal anomaly, epilepsy, congenital anomalies, spina bifida, injury, other.
- *Physical Disabilities.* Quadriplegia, paraplegia, multiple sclerosis, muscular dystrophy, cerebral palsy, other.
- *Acquired Brain Injuries.* Head injury, disease, concussion, head hemorrhage, laceration, stroke, other.

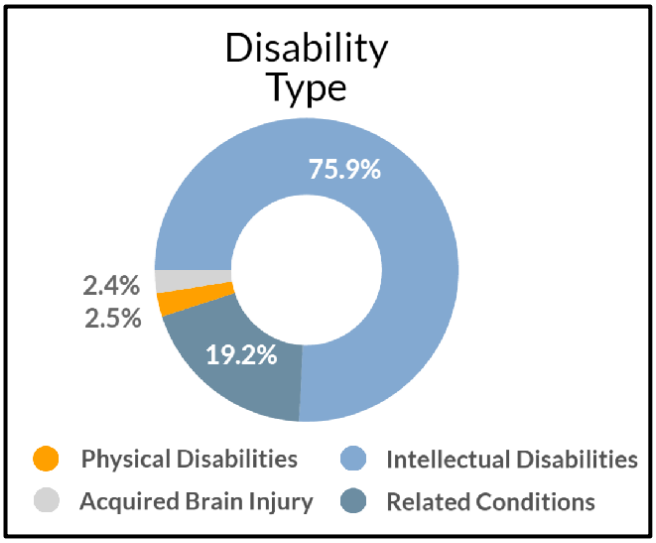

Figure 2. Primary Diagnosis for Individuals in Services, FY 2016
Source: DSPD Annual Report 2016

New Choices Waiver. The New Choices Waiver, another of Utah's eight waivers, allows certain individuals who reside in an institutional setting to move to one of the HCBS Waivers and receive supports in the community. Those with acquired brain injuries or physical disabilities residing in nursing facilities can move through the Portability Program. Those with intellectual disabilities or related conditions residing in ICF/IDs can move through the Transition Program. The number of individuals who can move from institutions to the community each year is more limited under the Transition Program. Because institutional care is an entitlement benefit (it must be made available to anyone who qualifies) but

community-based services can be limited under the waivers, DOH found that operating the program without limits led to unsustainable growth in cost. Potential New Choices Waiver individuals are selected based on the type of facility and then length of stay; those not selected may apply again the next year. The Legislature transfers funding from DOH to DSPD annually to accommodate the shift in costs for these individuals.

Children in the Custody of Child and Family Services and Juvenile Justice Services. DSPD provides services to any child with a disability who is in the custody of the State through another Department of Human Services division. From FY 2014 to FY 2017, the unduplicated number of children in Division of Child and Family Services (DCFS) custody with a diagnosed disability ranged from 320 to 538 annually (equivalent to 7 to 12 percent of children in custody). DCFS or the Division of Juvenile Justice Services (DJJS) pay for services until the child reaches the age of majority, usually age 21 for this population, at which point he or she will remain in services if needed but be covered by the DSPD budget. Each year, about 29 children with disabilities in custody reach the age of majority, and DSPD requests new funding to support these individuals.

4. How is the disability services system organized?

Administration. CMS, within the Department of Health and Human Services, is the federal agency that reviews and approves the HCBS Waivers. CMS also reviews states' rate setting processes. DOH, specifically the Bureau of Authorization and Community-Based Services within the Division of Medicaid and Health Financing, interfaces directly with the federal Medicaid program. The bureau sets eligibility criteria and applies for renewal and changes for waiver programs. DOH accepts state funding from DSPD, draws down the federal matching funds, and returns all funds to DSPD for dispersal to contracted providers or for DSPD administration.

DSPD administers the DSPD Waiver programs by: setting provider rates, disbursing funds to providers, licensing and auditing providers, communicating with individuals, conducting needs assessments and reviews of new and emergency needs, among other responsibilities. The division provides these administrative functions from one state-level office. State-level operations include certain other personnel, such as nurse case managers for those on the Physical Disabilities Waiver.

Contracted Providers. The majority of disability services for individuals on the DSPD Waivers is provided by DSPD through contracted providers. These independent entities provide all direct services, including support coordination, which was provided primarily by state employees until 2009-2010. A description of service types is provided in Question 6, with a full list of rates in Appendix A. DSPD sets a consistent rate for each service type and reimburses providers on a fee-for-service basis after services have been rendered.

Self-Administered Services. Individuals and families receiving services have the option to participate in the Self-Administered Services (SAS) program. In this program, rather than hiring a provider who would bill DSPD directly, a family hires staff independently and receives funds from DSPD to pay those staff. The

SAS program allows families to hire other family members or friends and may allow for a higher staff wage rate, without administrative overhead. Because hiring staff directly involves various legal requirements, SAS participants work with a fiscal intermediary who assists them with payroll and other processes.

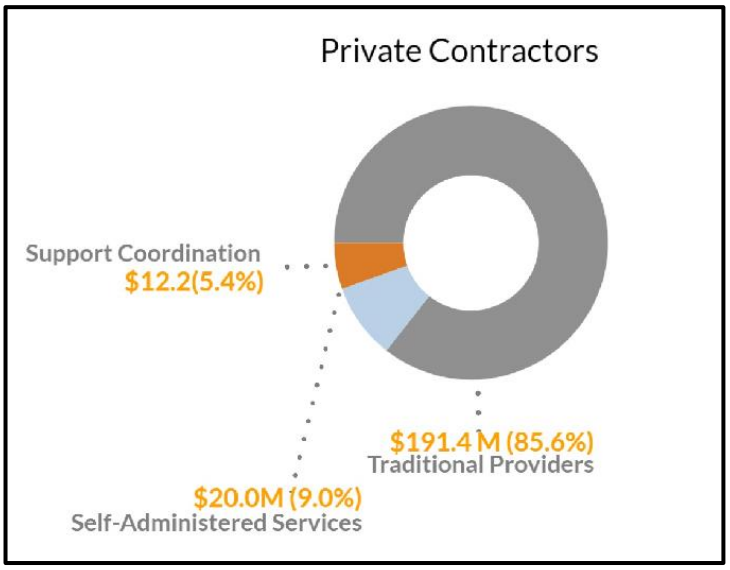

Figure 3. Percent of Expenditures for Contracted Providers, by Traditional Providers, Self-Administered Services, and Support Coordinators, FY 2016
Source: DSPD Annual Report 2016

Related Organizations. Multiple entities participate in aspects of the disability services system, including:

- *Other Government Agencies.* In addition to the agencies identified in the Administration section above, the Department of Workforce Services (DWS) provides eligibility determination services. The Utah State Office Rehabilitation (USOR), within DWS, works with DSPD on the Vocational Rehabilitation program and other employment efforts.
- *Utah State University Office of Rehabilitation.* The office works with DSPD and USOR on vocational rehabilitation and other employment efforts.
- *Utah Developmental Disabilities Council.* Utah receives federal funding to operate a council to serve as a coordinating, advocacy, and long range planning body for people with disabilities. The Utah Developmental Disabilities Council, currently established by a Governor's executive order, advocates for the collective needs of people with disabilities in Utah and works to facilitate system changes and increased system capacity. It awards and monitors certain federal grants and then evaluates the effectiveness of those grants.
- *Disability Law Center.* The center is a private, non-profit organization designated by the Governor as Utah's Protection and Advocacy agency. Their mission is "to enforce and strengthen laws that protect the opportunities, choices and legal rights of Utahns with disabilities."
- *Legislative Coalition for People with Disabilities.* The coalition is a private, non-profit organization that "advocates for public policy affecting all people in Utah who have disabilities."
- *Utah Parent Center.* The center is private, non-profit organization that aims "to help parents help their children, youth and young adults with all disabilities to live included, productive lives as members of the community."

- *Service Provider Organizations*. These organizations advocate for providers and include Utah Association of Community Services (UACS), Independent Support Coordinator Association (ISCA), and Support Coordinator Open Roundtable (SCOR).

5. How do we pay for disability services?

In FY 2017, DSPD had an anticipated budget of $302 million, of which $250 million was for community-based disability services, including all three waiver programs.

State General Fund. About 30 percent of DSPD's funding is state General Fund, which the division uses to draw down federal funds through the Medicaid program.

Transfers. Federal Medicaid funds are reflected as "transfers" in DSPD's budget, because the funds are drawn down by DOH and then transferred to DSPD. The federal government matches state funds at a rate known as the Federal Medical Assistance Percentage (FMAP), which is adjusted annually and by state. The rate is about 70 percent for services and 50 percent for administration. (See Figure 4).

Federal Grants. DSPD leverages smaller federal grants in addition to Medicaid funds. The division regularly receives a portion of the department's Title XX Social Services Block Grant, at about $1.3 million annually; these funds are primarily spent on individuals who do not qualify for Medicaid. Beginning in FY 2017 and continuing for five years, the division has a grant called the Utah School to Work Interagency Transition Initiative, which provides $250,000 each year and supports employment efforts.

Dedicated Credits. The division collects a small amount of dedicated credits: $848,700 in actual FY 2017 collections. These funds are from two sources: $702,100 from Support Collections (from individuals who are able to contribute to the cost of their care) and $146,600 from Office of Recovery Services Collections (from private health insurance held by individuals receiving services).

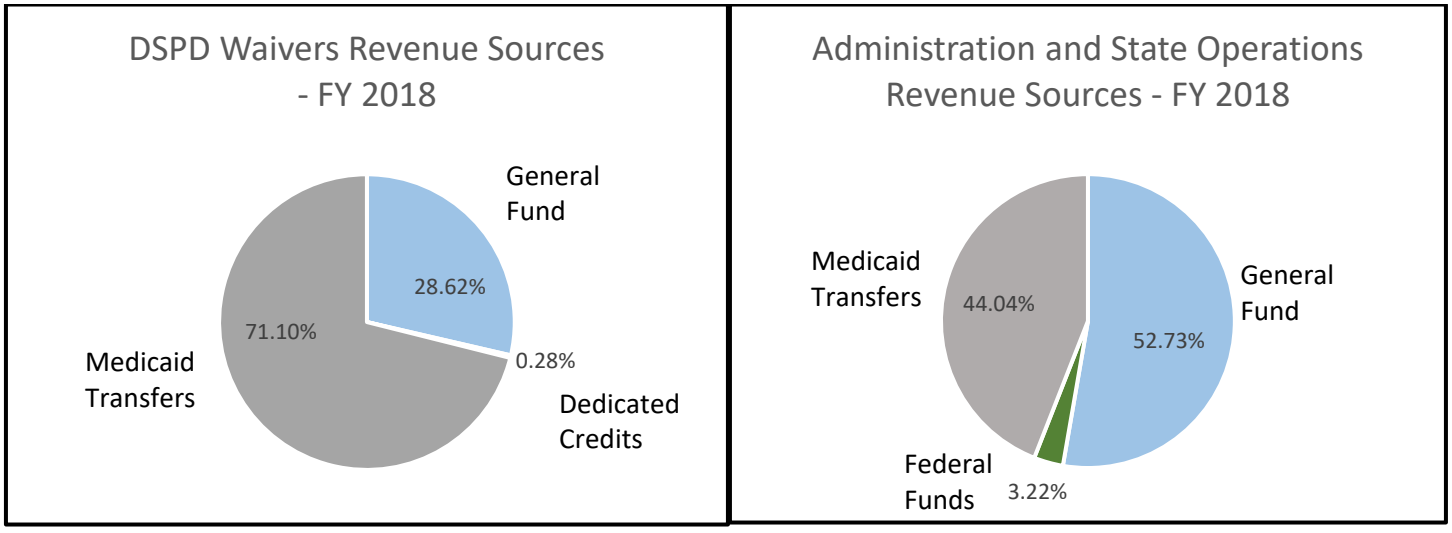

Figure 4. Percentage of Revenue by Source, Appropriated for FY 2018
Source: Office of the Legislative Fiscal Analyst, Compendium of Budget Information 2017

New Appropriations. Figure 5 shows new General Fund revenue amounts appropriated by the Legislature for provider rate increases in recent years.

Appropriations for Provider Rate Increases FY 2014 - FY 2018			
Fiscal Year	**Purpose**	**Source**	**Amount**
2014	State Contract Provider COLA	General Fund	$387,400
	State Contract Provider COLA	Trans. Medicaid	$910,700
	Subtotal, State Contract Provider COLA		*$1,298,100*
2015	Transportation for Individuals with Disabilities	General Fund 1x	$100,000
	Transportation for Individuals with Disabilities	Trans. Medicaid	$235,100
	Subtotal, Transportation for Individuals with Disabilities		*$335,100*
2015	Direct Care Staff Salary Increase	General Fund 1x	$1,250,000
	Direct Care Staff Salary Increase	Trans. Medicaid	$2,961,600
	Subtotal, Direct Care Staff Salary Increase		*$4,211,600*
2016	Direct Care Staff Salary Increase	General Fund	$4,232,500
	Direct Care Staff Salary Increase	Trans. Medicaid	$10,027,900
	Direct Care Staff Salary Incr - Internal Funding	General Fund	$1,162,700
	Direct Care Staff Salary Incr - Internal Funding	Trans. Medicaid	$2,754,800
	Subtotal, Direct Care Staff Salary Increase		*$18,177,900*
2016	Disabilities Transportation	General Fund 1x	$150,000
	Disabilities Transportation	Trans. Medicaid	$358,600
	Subtotal, Disabilities Transportation		*$508,600*
2017	Direct Care Staff Salary Increase Phase II	General Fund	$5,000,000
	Direct Care Staff Salary Increase Phase II	Trans. Medicaid	$11,658,300
	Subtotal, Direct Care Staff Salary Increase Phase II		*$16,658,300*
2018	Direct Care Staff Salary Increase Phase III	General Fund	$2,000,000
	Direct Care Staff Salary Increase Phase III	Trans. Medicaid	$4,704,700
	Subtotal, Direct Care Staff Salary Increase Phase III		*$6,704,700*
2018	Disabilities Motor Transportation Payment	General Fund	$150,000
	Disabilities Motor Transportation Payment	Trans. Medicaid	$352,800
	Subtotal, Disabilities Motor Transportation Payment		*$502,800*
2018	Fiscal Intermediary Rate Adjustment	General Fund	$250,000
	Fiscal Intermediary Rate Adjustment	Trans. Medicaid	$588,100
	Subtotal, Fiscal Intermediary Rate Adjustment		*$838,100*
		TOTAL	**$49,235,200**

Figure 5. Appropriations for Provider Rate Increases, FY 2014 - FY 2018
Source: Office of the Legislative Fiscal Analyst, Appropriations Reports 2013-2017

Budget structure. DSPD is comprised of a single line item with several appropriation units:

- KFA - Administration
- KFB - Service Delivery (includes certain state-level services, such as nurse managers for Physical Disabilities Waiver recipients)
- KFC - Utah State Developmental Center

- KFD - Community Supports Waiver
- KFE - Acquired Brain Injury Waiver
- KFF - Physical Disabilities Waiver
- KFG - Non-Waiver Services (includes services for recipients not eligible for Medicaid and time-limited supports, such as respite and supported employment, for individuals on the waiting list)

6. What are we buying with disability services?

Community-based services provided by DSPD support certain individuals with disabilities and their families, allowing those individuals to remain outside of institutional settings. These services must be less expensive than institutional care, in aggregate, per the requirements of the HCBS Waivers. The primary waiver administered by DSPD, the Community Supports Waiver, realized expenditures of $236.5 million in total funds in FY 2017 and served 5,094 people, at an average annual cost of $46,400 per person.

Types of Services. Descriptions of the various services provided through DSPD are listed below. (See Appendix A for a complete list of services and associated rates). Figure 6 shows the distribution of services received by 221 people who were newly brought into services in FY 2016.

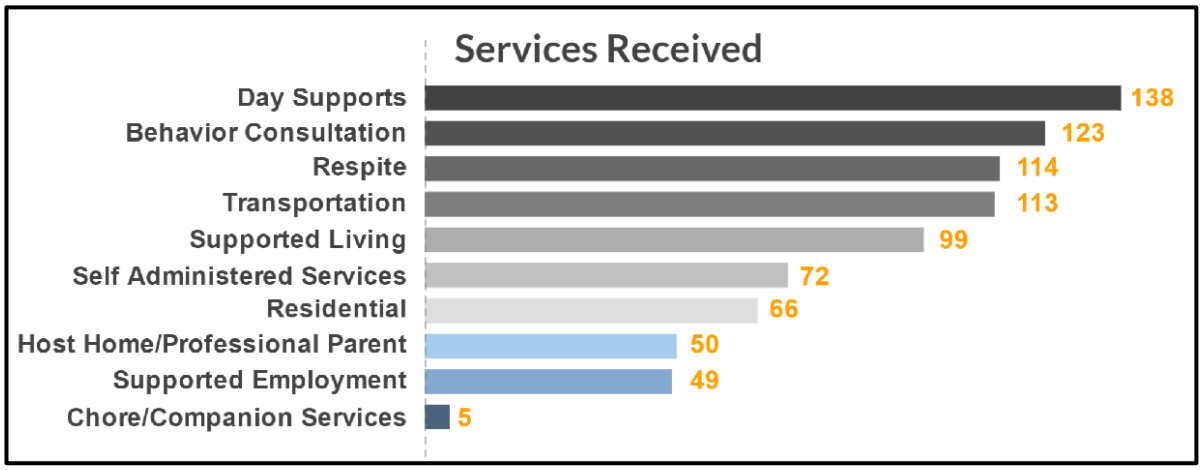

Figure 6. Individuals New to Services in FY 2016: Number of Individuals Receiving Each Service Type
Source: DSPD Annual Report 2016

Residential Services include five basic models which fall under two broad categories: 1) supported living and 2) supervised living.

1. **Supported Living**. Trained staff are available to provide support services as needed for less than 24 hours a day. There are two models of supported living services:
    - **Supported living arrangements**: Clients live independently in their own homes or apartments and receive periodic assistance and training with money management and other skills necessary for independent living.
    - **Supervised apartments:** Clients live in apartments with two or three people. Apartment supervisors are available to provide whatever assistance may be needed.

2. **Supervised Living**. Trained staff are available to provide supervision and support 24 hours a day. There are three models of supervised living services:
    - **Residential habilitative supports:** Individually tailored 24-hour supports that assist with acquisition, retention, or improvement in skills related to living in the community. The services may be provided in group homes or supervised private residences.
    - **Professional parent homes:** These are family homes in which one or two children beneath the age of 22 with disabilities live with 24-hour support in a very intensive habilitative family arrangement. The families are supported by trainers and consultants and also receive respite care.
    - **Host homes:** These services are provided for individuals who turn 18 years of age but have been living in professional parent homes and wish to continue to live in that family home with other adults. The professional parent assumes more of a peer role with the individual and the individual works with the trainer in the acquisition of skills that allow independence as an adult. The person may receive support and/or supervision up to 24 hours per day.

Day Services programs take place in the community or in workshops and are designed to provide work opportunities as well as maintain skills in post-school years.

- **Day programs** are designed to promote the ongoing development and maintenance of skills. The services may be provided in a variety of settings, including natural workplace settings throughout the community or at sheltered sites. Most participants in these programs receive federal funding through the Medicaid program. Care must be taken that the goals and objectives for each individual are not directed at teaching specific job skills. Medicaid will not pay for vocational training that is part of a day training program, though DSPD works closely in coordination with USOR to leverage available federal funding opportunities.

Supported Employment programs place people with disabilities in jobs in regular work environments. A job coach is assigned for each person to provide on-the-job training and to help solve problems that may arise. The cost of supported employment is $35.04 per job coach per hour. In some cases, individuals are able to reduce the need for a job coach and may eventually handle a job on their own. For most individuals who enter this service, prior to the establishment of a waiting list in USOR, the office funded the initial support required through milestone payments up to 24 months or when a person reached a 20 percent intervention level. DSPD then provides the ongoing funding.

In-Home Support provides services to families that enable them to care for their children with disabilities at home. These services are provided through contract providers or by staff hired directly by parents. The individualized nature of the program does not allow for fixed rates or funding allocations. The annual average expenditure per client is about $18,379.

Transportation Services helps people with disabilities in getting from their homes to day programs, jobs, and other activities. The need for transportation assistance and the cost of transporting people is a frequently mentioned issue in public hearings. This issue is especially relevant in rural areas of the State.

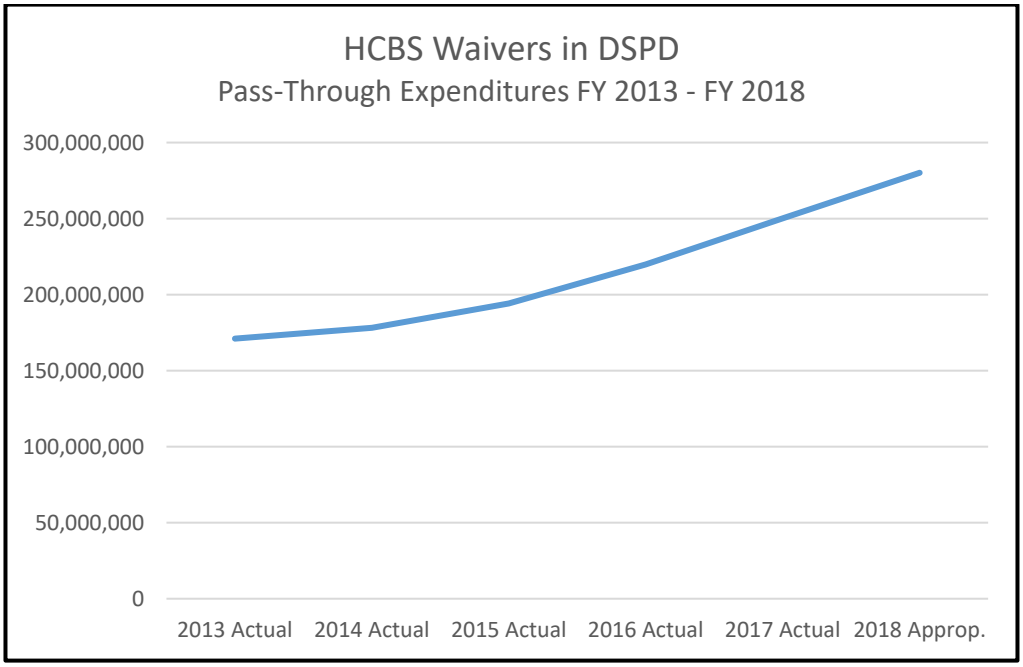

Figure 7. HCBS Waiver Expenditures, Including Community Supports, Acquired Brain Injury, and Physical Disabilities Waivers, FY 2013 - FY 2018

Source: Office of the Legislative Fiscal Analyst, Compendium of Budget Information 2017; DSPD

Expenditure Trends. Expenditures on disability services include some state-level administration, with a mix of personnel and current expense, but are primarily pass-throughs to contracted providers. Administrative and other state-level costs, for all DSPD services, totaled approximately $11 million in FY 2017, while pass-throughs to community-based providers totaled $250 million.

Figure 7 shows pass-through expenditures for the three waiver programs from FY 2013 through the budgeted amount for FY 2018, demonstrating significant increases in the cost of the program each year. Reasons for the increases include:

- *Mandated additional needs*. Once individuals are brought into services, they must receive any new services they are assessed to need, per waiver requirements. The nature of aging and disability specifically is that needs generally increase over time. DSPD reports the following annual growth rates in expenditures due to mandated additional needs:
  - FY 2013: 3.1%
  - FY 2014: 2.8%
  - FY 2015: 2.7%
  - FY 2016: 3.0%
  - FY 2017: 2.8%
- *Youth aging out*. Youth with disabilities in state custody receive any needed community-based services. Once they "age out" of custody with another division and if they still require services, DSPD must provide those services and request additional appropriations. About 29 youth age out of custody and into services each year.
- *Waiting list appropriations*. Most years, the Legislature appropriates an amount of new funding to bring more individuals off of the waiting list and into services.

- *Use of attrition funds for the waiting list*. Since FY 2014, following S.B. 259, "Amendments to Disability Waiting List (2013 General Session), statute has required that funds made available after individuals receiving services die, transition to an institutional setting, or move out of state be used to bring individuals off of the waiting list and into services, rather than meet mandated additional needs. These new individuals will likely have their own mandated additional needs over time.
- *85 percent critical needs/15 percent respite only statutory requirement*. Also beginning in FY 2014 as a result of S.B. 259, statute requires that new appropriations for the waiting list be divided between individuals with the highest needs scores on their assessments and those requiring respite services only. This provision allows more individuals and families to be served. However, the annual percent growth in mandated additional needs has been higher for those individuals entering services as respite only, compared to the critical needs population, and respite-only individuals are likely to spend more total years in services.
- *Provider or service-specific rate increase appropriations*. The Legislature has provided new appropriations to increase the rate paid to providers for specific services. Recent examples include direct care staff salaries, fiscal intermediaries, and motor transportation payment. (See Figure 5). DSPD reports the following annual growth rates in expenditures due to rate increases:
    - FY 2013: 3.50%
    - FY 2014: 0.08%
    - FY 2015: 0.00%
    - FY 2016: 10.70% (10.5% effective 4/1/2015, 0.18% effective 7/1/2015)
    - FY 2017: 8.00%

Cost Ranges by Service Type. Figure 8 shows rates and expenditure data for the services that comprise 95 percent of DSPD pass-through expenditures, for the Community Supports Waiver (not including Acquired Brain Injury and Physical Disabilities). The table shows that nearly half of all expenditures are for residential habilitation supports. There is a wide range in the high and low costs for individuals receiving these services. Additionally, the average cost per client receiving residential habilitation supports is $16,000 more than the average of $46,400 across all individuals, demonstrating that there are many individuals receiving only respite or relatively inexpensive services. Also of note is the difference between the maximum rate and the total expenditures per service: in some cases a rate may be low but provide services to a large number of people, resulting a large total expenditure, and vice versa.

Community Supports Waiver
FY 2017 Expenditures by Service Categories

Service Categories	Max Rate	Clients Served	FY17 Expenditure	% of Total	% of Accum Total	Avg Per Client	Max Per Client	Min Per Client
Residential Habilitation Supports	$445.29	1712	$107,478,665	45.5%	45.5%	$62,780	$133,134	$177
Day Supports Group	$182.47	2606	$36,527,477	15.5%	60.9%	$14,017	$45,884	$45
Host Home Support	$280.37	320	$15,518,794	6.6%	67.5%	$48,496	$102,335	$192
Support Coordination External	$207.96	5023	$12,001,813	5.1%	72.5%	$2,389	$2,496	$47
Supported Living Hourly - SAS	$4.68	726	$8,518,428	3.6%	76.1%	$11,733	$83,105	$4
Supported Living w/ Natural Supp	$6.22	838	$6,775,927	2.9%	79.0%	$8,086	$48,441	$19

Supported Living Quarter Hourly	$6.88	372	$6,461,316	2.7%	81.7%	$17,369	$105,395	$14
Routine Respite - SAS	$3.33	917	$5,691,162	2.4%	84.1%	$6,206	$45,284	$6
Professional Parent Supports	$280.37	133	$5,362,771	2.3%	86.4%	$40,322	$98,196	$536
Supported Employment	$10.18	639	$4,348,563	1.8%	88.3%	$6,805	$34,173	$10
Motor Transportation Payment	$10.41	2323	$4,344,642	1.8%	90.1%	$1,870	$3,133	$10
Day Supports - Partial Day - 6 hrs	$182.47							
Day Supports - Partial Day - 10 hrs	$298.47	315	$2,936,857	1.2%	91.3%	$9,323	$51,874	$37
Behavior Consultation II	$11.15	1364	$2,521,232	1.1%	92.4%	$1,848	$8,173	$11
Supported Employment - Group	$41.85	287	$2,353,288	1.0%	93.4%	$8,200	$10,797	$126
Day Supports for an Individual	$10.18	125	$1,964,510	0.8%	94.2%	$15,716	$34,458	$51
Daily Transportation	$17.30	614	$1,949,970	0.8%	95.0%	$3,176	$5,207	$35

*Note: SAS = Self-Administered Services.

Figure 8. Community Supports Waiver Rates and Expenditures, FY 2017

Source: DSPD

Cost Ranges by Individual. The chart in Figure 9 shows another view of expenditures. Within service groupings, the chart illustrates the range of costs for individuals over one year. The line between the light and dark gray boxes shows the average annual cost for individuals in that service type. The furthest dots above and below each bar show the high and low cost outliers. Not surprisingly, residential and host home placements are the most expensive but there is notable variation among individuals.

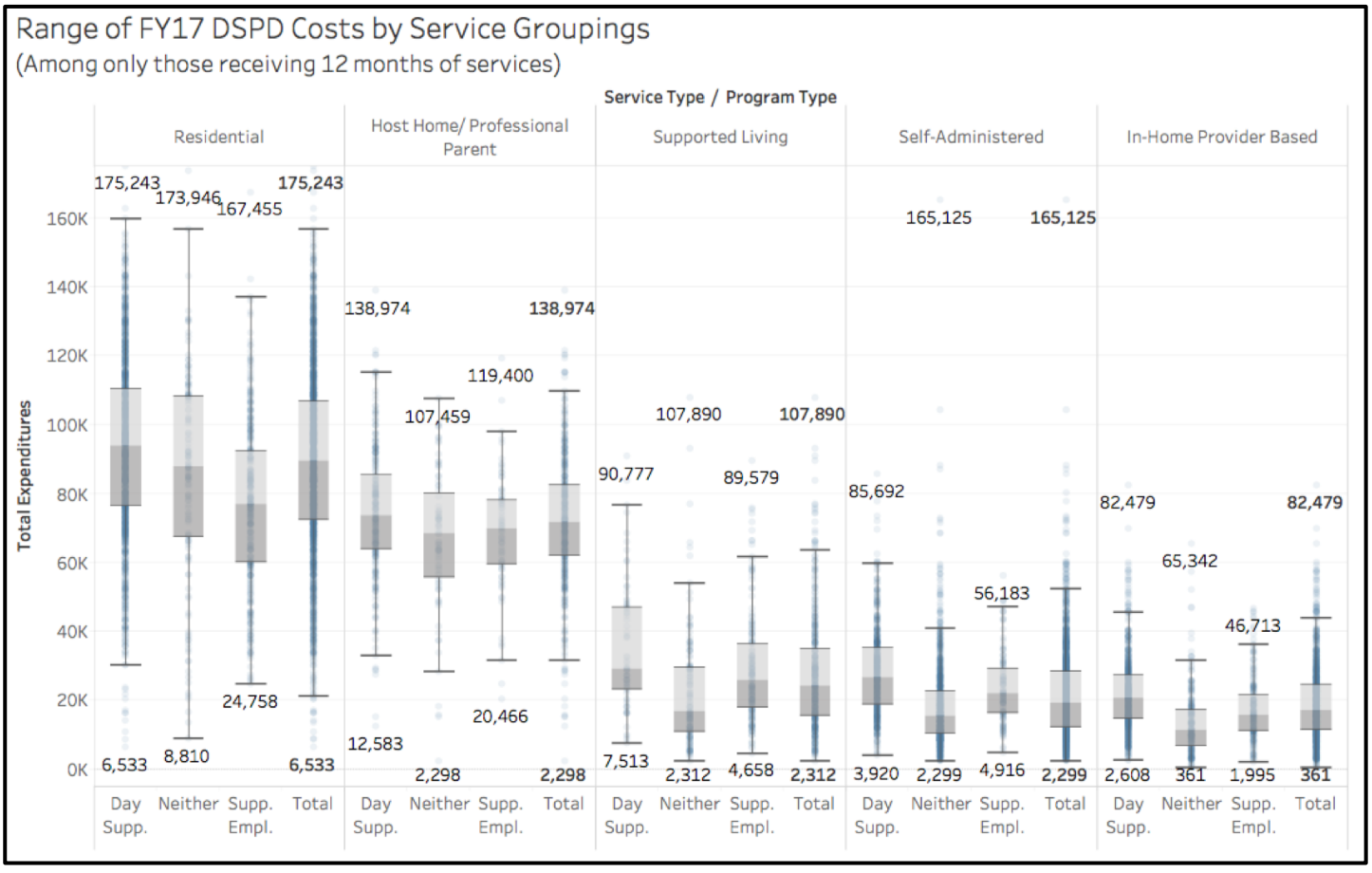

Figure 9. Individual Expenditures by Service Grouping, FY 2017

Source: DSPD

7. How do other states determine rates?

Rate Setting. Many states initially determine Medicaid rates by indexing to Medicare payment rates, and then making adjustments. Utah's rates across the whole Medicaid program are 86 percent of the Medicare rate, compared to a national average of 72 percent.

All states operating an HCBS Waiver are subject to the federal regulations related to provider rates described under Question 2. Certain states, such as Alaska, use periodic cost surveys and review of audited financial statements to assess the accuracy of their provider rates.

In some cases, rate setting is accomplished through comparison to other states. During the 2017 General Session, fiscal intermediary providers requested a rate increase based on documentation that the Utah rate of $48.00-$51.76 was well below the national average of $98.10, as well as that of surrounding states. These providers stated that they would not be able to remain in the market at the current rate given their operational costs.

Cost Containment. A 2013 Kaiser Family Foundation report found that all states participating in the HCBS Waiver program used cost-containment strategies. *Utah was one of many states that used a waiting list for cost containment, but it was one of few states that did not leverage other strategies that limited reimbursement payments, including cost limits, service or hourly limits, and geographical limits*.

The same report noted that only Arizona, Rhode Island, and Vermont do not have HCBS Waivers. These states operate 1115 Waivers instead, using statewide managed care programs for all HCBS populations and services. Five other states -- Delaware, Hawaii, New York, Tennessee, and Texas -- use managed care plans for certain geographic areas or populations. *Utah has implemented managed care programs for the majority of its other Medicaid services, in most geographic areas, including physical health, mental health, and substance use disorder treatment, but has not implemented any for community-based disability services*.

At the 2017 annual conference of the National Association of Councils on Developmental Disabilities (NACDD), representatives from Kansas discussed how they had recently moved all Medicaid populations to managed care, including those with disabilities. Despite initial challenges, representatives expected improved care coordination and an eventual bending of the cost curve. They were also able to preserve the option for self-administered services, provided the costs were lower than the managed care payment.

8. How do we know if we are successful with setting provider rates?

DSPD and the Legislature have used various means of determining the success of setting provider rates.

Community Service Providers FY 2017 Expenditures				
Rank	**Provider Name**	**FY17 Expenditures**	**% of Total Expenditures**	**% of Accumulative Expenditures**
1	Chrysalis Utah, Inc.	$45,881,558	18.62%	18.62%
2	North Eastern Services, Inc.	$17,533,270	7.12%	25.74%
3	Turn Community Services, Inc.	$16,529,168	6.71%	32.45%
4	RISE, Inc.	$15,663,352	6.36%	38.81%
5	Community Treatment Alternatives	$15,125,027	6.14%	44.94%
6	Danville Services of Utah, LLC	$13,542,119	5.50%	50.44%
7	Leonard Consulting, LLC	$13,269,441	5.39%	55.83%
8	Eaton Alliance, Inc.	$7,686,642	3.12%	58.95%
9	TKJ, LLC	$6,628,307	2.69%	61.64%
10	Futures Through Choices, Inc.	$6,303,624	2.56%	64.19%
11	Acumen Fiscal Agent, LLC	$6,169,982	2.50%	66.70%
12	North Eastern Services-Lakeside	$5,629,290	2.28%	68.98%
13	Columbus Foundation, Inc.	$4,396,633	1.78%	70.77%
14	Front Line Services, Inc.	$3,463,010	1.41%	72.17%
15	Work Activity Center, Inc.	$3,270,661	1.33%	73.50%
16	Cache Employment and Training	$2,920,205	1.19%	74.69%
17	Cerebral Palsy of Utah	$2,574,703	1.05%	75.73%
18	KT&T Ventures LLC	$2,451,960	1.00%	76.73%
19	Key Residential Services L.C.	$2,407,518	0.98%	77.70%
20	Utah Transit Authority	$2,339,142	0.95%	78.65%
21	Ability and Choice Services, Inc.	$2,311,203	0.94%	79.59%
22	Affinity Services, Inc.	$2,112,285	0.86%	80.45%

Figure 10. Providers by Total Expenditures, FY 2017
Source: DSPD

Provider Stability. One measure of rate-setting success is the stability of providers in the market. As noted in Question 7 with the fiscal intermediary funding request last year, providers will eventually exit the market if they cannot operate at or below the reimbursement rate they receive. DSPD indicates that their "core provider base has stayed stable over time" and Figure 10 shows that 80 percent of FY 2017 expenditures went to only 22 providers. Figure 11 further indicates that the total number of providers has not declined in recent years. However, *DSPD indicates that they do not track the reasons that providers exit the market.*

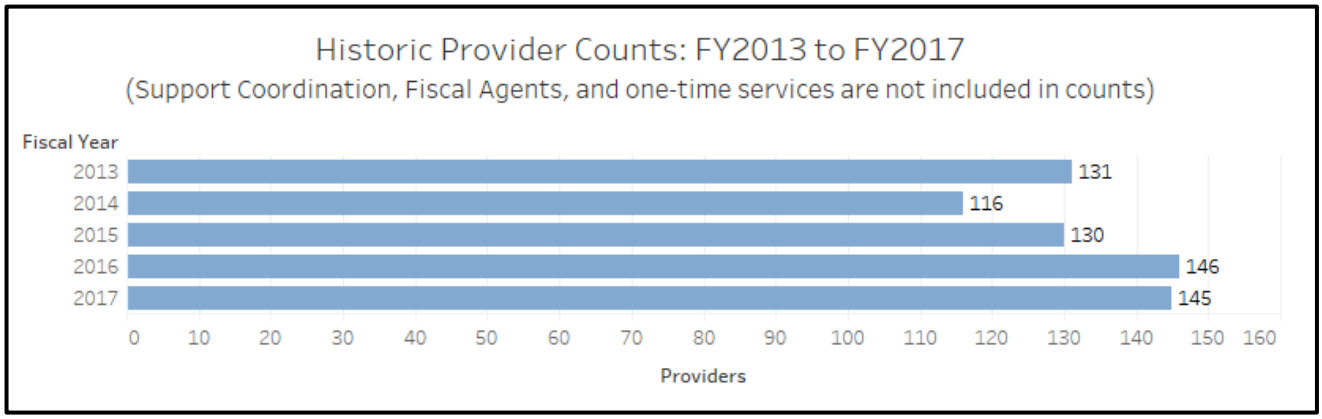

Figure 11. Provider Counts, FY 2013 - FY 2017
Source: DSPD

Turnover Rates. Another measure of provider rates is turnover. DSPD participates in the National Core Indicators (NCI) Survey, which measures standard performance and outcome measures for disability services, including staff stability. In 2015, the NCI Survey identified Utah as having the highest annual turnover for direct care staff among the 17 states participating, at 75.6 percent.

During the 2015 General Session, providers and advocates requested a rate increase for direct care staff because low wages were contributing to high turnover. Providers stated that the high turnover reduced stability for individuals receiving services and added to the provider burden of recruitment and training. As part of new funding allocated to increase direct care staff salaries in the 2015, 2016, and 2017 General Sessions (see Figure 5 for appropriated amounts), the Legislature requested a report on the impact of the funding on staff turnover. DSPD's 2017 report identified turnover rates by calendar year (CY) as:

- CY 2014: 80%
- CY 2015: 76%
- CY 2016: 69% *(based on preliminary figures)*

Providers also reported that starting wages increased $2.50 per hour on average and average wages increased $3.03 per hour on average, through CY 2016. The Legislature further required DSPD to conduct audits of a sample of provider records to ensure that funds went only to direct care staff and any unused funds were returned.

Cost Analysis. As DSPD notes, a survey of prices is not sufficient to analyze costs "with providers in a dedicated market where DSPD is the sole source of payments to most providers." A full cost analysis is needed in order to "rebase" the rates. With this analysis underway as part of the HCBS Waiver renewal for CMS, DSPD should soon have information to consider rate changes. However, given that providers have managed to remain in the market with existing rates, changes could benefit some and harm others, leading to destabilization. The analysis may also reveal that some rates are paying below cost, and the Legislature will need to consider whether to increase funding to meet those needs.

As an example of a cost analysis associated with a funding request, during the 2017 General Session providers requested a funding increase for the motor transportation payment (MTP) rate. As part of a

previous request, providers analyzed the actual costs of providing MTP services and were able to compare them to the current rate to demonstrate the disparity.

Consumer Price Index. DSPD tracks provider rate increases relative to previous years and relative to the Consumer Price Index (CPI). The CPI estimates increases in the cost of living based on increases in the cost of common consumer goods and services, including food, car gasoline, home utilities, vehicles, apparel, and medical care. This measurement has become more relevant since the Legislature removed the statutory requirement to consider cost of living adjustments (COLAs) for contracted providers with H.B. 357, "Budgetary Amendments" (2014 General Session). DSPD's analysis (not included in this brief), shows that since 1995, the CPI has increased 65.5 percent and COLAs for DSPD have increased the rate index by 57.1 percent.

Quality Measures. The NCI Survey evaluates measures for topics in addition to staff stability. Among these are measures of quality and satisfaction. DSPD reports that high quality services allow people to live fulfilling lives, through consistent support that meets their needs. Figure 12 shows one of these satisfaction measures.

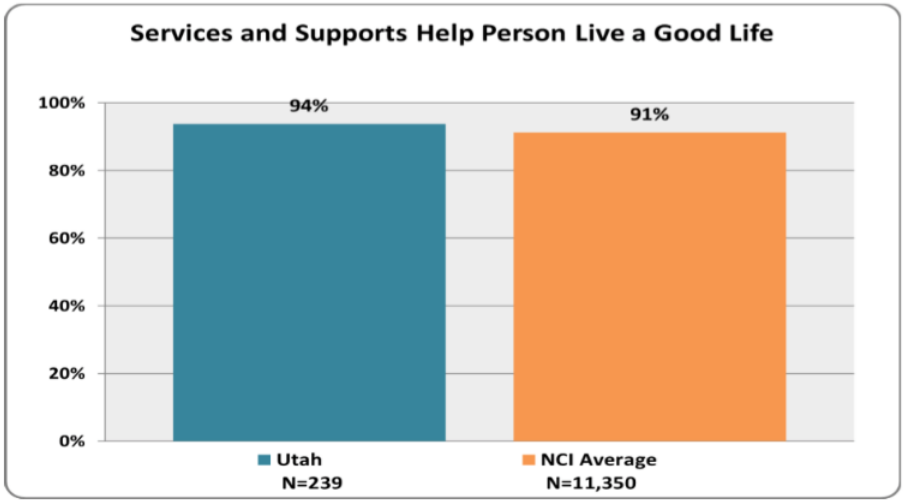

Figure 12. Satisfaction Survey Results of Individuals and Families in Services, FY 2016
Source: National Core Indicators Survey 2016, published online by DSPD

ANALYSIS

This section answers the following questions:

1. Are rates accurate?
2. Are rates adequate?
3. How should we decide rate increases?

1. Are Rates Accurate?

Without a complete cost analysis, it is not possible to know if current disability provider rates are accurately reflecting costs. Given that rates have remained static since the 1990s, outside of new appropriations, it does not seem likely that they are all reflecting costs accurately. There are some rates that are frequently the subject of discussion as being too low, such as the motor transportation payment (MTP). Presumably, the most inaccurate rates are also the most problematic and have therefore garnered public attention and increases over the years. A cost analysis of rates is in process and should provide useful information to DSPD and the Legislature early in 2018 about what, if any, adjustments are needed. It is possible, however, that the analysis will show that many rates are not meeting costs, and the Legislature will need to decide whether to facilitate increases with new appropriations.

2. Are Rates Adequate?

As DSPD reports, the core provider base is quite stable, indicating that even if rates are low they are sufficient for these companies to operate. If some rates are too low, such as MTP, then some must also be high for providers to balance costs in the aggregate. As a result, adjustments following a cost analysis could create instability for provider business models. To determine rate adequacy, other measures such as turnover are also useful. Providers may be able to remain in business at current rates, but there may be inefficiencies and ultimately waste, such as on recruitment and training of direct care staff given high turnover. Adequacy should also be measured on quality, such that rates are able to command services that meet the standards set by DSPD and the terms of the waiver: the stable provider base and positive NCI scores suggest that this is the case.

3. How should we decide rate increases?

When the Legislature considers future rate increases, it would be valuable to implement the following, depending on the size of the request:

- Request a full cost analysis.
- Request cross-state and national comparisons.
- Consider a multi-year implementation for particularly large requests.
- Implement requirements to monitor the impact of the increase, through intent language or subcommittee-tracked performance measures.
- Consider ways that other states have implemented cost-containment strategies to leverage existing funding first.

Pending the results of the 2018 cost analysis, the Legislature may wish to implement a schedule for DSPD and DOH to conduct a similar analysis on a five or ten year basis.

Appendix A.

Service Provider Rates for Community Supports Waiver Only - FY 2017

Community Supports Waiver FY 2017 Service Rates	
Category	**Maximum Rate**
Environmental Accessibility Adaptations - Vehicular	$10,000.00
Environmental Accessibility Adaptations Home	$10,000.00
Specialized Medical Needs $5001 - $10,000	$10,000.00
Specialized Medical Needs $0.00 - $5000	$5,000.00
Residential Start Up Costs	$1,500.00
Respite Session	$489.01
Residential Habilitation Supports	$445.29
Day Supports - Partial Day - 10 hours	$298.47
Host Home Support	$280.37
Professional Parent Supports	$280.37
Support Coordination External	$207.96
Day Supports Group	$182.47
Day Supports - Partial Day - 6 hours	$182.47
Purchase of a Medication Dispenser Device	$175.32
Companion Services	$113.54
Exceptional Care Respite with Room and Board Included	$113.22
Transportation Supports/Bus Pass	$105.00
Exceptional Care Respite without Room and Board	$103.50
Routine Respite with Room and Board Included	$93.18
Provider Facility Based Routine Respite without Room and Board	$83.01
Fiscal Management Service	$51.76
Monitoring fee for cell phone based per device	$42.08
Supported Employment in a Group	$41.85
Monitoring fee for Med Dispenser	$35.06
Personal Emergency Response System Installation	$35.06
Personal Emergency Response System - Monthly Fee	$30.05
Daily Transportation	$17.30
Behavior Consultation III	$17.06
Specialized Supports/Massage Therapy	$14.56
Personal Budget Assistance	$13.76
Behavior Consultation II	$11.15
Motor Transportation Payment	$10.41
Supported Employment for an Individual	$10.18
Day Supports for an Individual	$10.18
Professional Medication Monitoring by a Registered Nurse	$9.04

Day Supports - Partial Day	$7.59
Supported Living Hourly - Self Administered	$7.02
Supported Living Quarter Hourly	$6.88
Personal Budget Assistance	$6.88
Behavior Consultation I	$6.51
Professional Medication Monitoring by a Licensed Practical Nurse	$6.25
Supported Living with Natural Supports	$6.22
Chore Services - Self Administered	$6.21
Homemaker Services - Self Administered	$6.21
Companion Service - Self Administered	$5.86
Routine Respite with Room and Board - Family Managed	$5.63
Personal Assistant - Self Administered	$5.34
Chore Services	$5.00
Routine Respite - Family Managed - Self Administered	$4.99
Transportation Supports/Bus Pass	$4.85
Companion Services	$4.74
Extended Living Supports	$4.70
Supported Living Hourly - Family managed - Self-Administered	$4.68
Personal Assistance Services	$4.31
Exceptional Care Respite without Room and Board	$4.30
Chore Services - Self Administered	$4.14
Homemaker Services - Self Administered	$4.14
Companion Service - Self Administered	$3.91
Routine Respite with Room and Board - Family Managed Group	$3.76
Routine Respite with Room and Board - Family Managed	$3.75
Personal Assistant - Self Administered	$3.55
Provider Facility Based Routine Respite without Room and Board	$3.46
Routine Respite - Family Managed Group	$3.34
Routine Respite - Family Managed - Self-Administered	$3.33
Monitoring fee for additional ERS pendant	$3.01
Routine Respite with Room and Board - Family Managed Group	$2.51
Routine Respite - Family Managed Group	$2.22
Utah Transit Authority Route Deviation Fee	$1.45
Supported Employment with a Co-Worker	$1.38
Daily Transportation Payment	$0.38